

(b)(3):10 USC 424;(b)(6)

From: [REDACTED] (b)(3):10 USC 424;(b)(6)
Sent: Tuesday, June 24, 2014 9:22 AM
To: Walker, Darrell W CIV WHS ESD (US)
Cc: Skinner, Patricia E CIV WHS ESD (US);
Subject: RE: Query re DOPSR Review of an Appeal
Signed By: [REDACTED]

Darrell-

Good morning. I understand long days and competing requirements.

The "secrecy agreement" and "contractual language" to which the author refers likely would be the standard non-disclosure agreements he signed, which would be at a minimum the SCI NDA (DD1847-1) and the collateral NDA (SF-312). You probably are familiar with them. We can provide you copies of the standard forms, if necessary. If the author does want his signed copies, DIA's Office of Security would provide them to him. At this point, according to [REDACTED] this is something the author said may pursue subsequently depending on the outcome of his appeal.

(b)(3):10 USC
424;(b)(6)

Regarding his travels to GTMO, I do not know which DoD entity would have granted clearance.

As I understand it, non-government personnel, to include media members, can apply and have been permitted to attend the Military Commission proceedings at GTMO as observers. The NYC Bar Association apparently has been active in doing so and commenting on them.

The essence of the author's appeal and the "rationale" or "justification" he offers for why DoD should withdraw its objection/amendment is in the 2-1/2 pages of his memo is:

- his NDA does not bar him from referencing or discussing the document because he did not see or learn of it while he was a USG/DoD/DIA employee;
- the document is in the public domain;
- there is a legal precedent for him being "allowed" to do so (the one CIA-specific case he notes)

If, given DoD's extant position on classified information in the public domain, DOPSR determines the author's justification is insufficient for withdrawing the DoD objection to publication of the material, we can provide the author with a copy of DOPSR's response, unless DOPSR prefers to respond directly.

Thank you.

(b)(3):10 USC 424;(b)(6)

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-----Original Message-----

From: Walker, Darrell W CIV WHS ESD (US)
[mailto:darrell.w.walker.civ@mail.mil]
Sent: Tuesday, June 17, 2014 11:49 AM
To: (b)(3):10 USC 424;(b)(6)
Cc: Skinner, Patricia E CIV WHS ESD (US)
Subject: RE: Query re DOPSR Review of an Appeal

(b)(3):10 USC 424;(b)(6)

In case she did not tell you, Pat asked me to take this case. So I will be the POC until it is wrapped up and you can call me.

Sorry for not getting back sooner. Just not enough time in 10-hr days to get everything done. I have his case on my desk now and if DoJ, GAO, and former ASDs stay quiet for a little while maybe I can get this one out of here.

(b)(3):10 USC 424;(b)(6)

Who would have his "secrecy agreement(s)" that he mentioned on the first page of his March 17 letter to [redacted] DIA? Also, [redacted] advised you could provide the security policy for personnel at the time he was employed by you. He wants to review his "contractual language." What was it and can DIA provide a copy? He claims he now can spread classified info around that he finds on the web because he has no current DoD affiliation or constraint on him. True? Does not a DoD present or former employee have an obligation to protect classified information? Who granted him clearance to go to GITMO? I will get with OGC and discuss a way forward. In my opinion the national security world has changed since the court decisions of the 1970s/80s, primarily the basis for his "appeal." E.g., DoD's current position is classified information, even though in the public domain, remains classified until properly declassified. Thus, DoD cannot approve a publication containing such information as he claims.

Darrell

-----Original Message-----

From: (b)(3):10 USC 424;(b)(6)
Sent: Friday, June 06, 2014 10:33 AM
To: Walker, Darrell W CIV WHS ESD (US)
Cc: Langerman, Mark M CIV WHS ESD (US)
Subject: Query re DOPSR Review of an Appeal

Darrell-

Good morning. Would like to check on the status of DOPSR's review of an appeal case. The appeal pertains to DOPSR case 14-S-0806, "Comedy and Terror in Guantanamo Bay," by Michael Richter, for which DOPSR denied open publication of certain information.

The author's appeal was provided to DOPSR on 30 April.

The author of the case, a former DoD/DIA employee, is querying us about the

status since it was through DIA the author originally submitted the paper for DoD review.

To ensure there is no misunderstanding, DIA's referral of the author's appeal should not be construed as DIA advocating for or support of the author's appeal. There no DIA equities in the material that was denied.

Would appreciate any information we could provide the author as to where things stand with his appeal and/or when DOPSR's review may be done. If you prefer that the author directly contact DOPSR, please let me know and we will advise the author accordingly.

Thank you.

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